

Quecreek Report of Investigation
ADDENDUM 2

The United States Attorney's office had been conducting an independent investigation into the July 2002 inundation at the Quecreek Mine. In a May 24, 2004, letter from the law firm representing Consol Energy, Inc. (Consol) in the matter to Constance M. Bowden, Assistant United States Attorney, and a courtesy copy to MSHA, it was revealed that Consol had recently located a box of documents potentially related to the Quecreek incident.

MSHA contacted the law firm to inquire about the history of the documents and received a letter dated June 17, 2004. Based on the best recollection of the Consol personnel involved, the following history of the box was provided:

1. In the early to mid-1990s, Consol received a letter from the U.S. Environmental Protection Agency that it was conducting an investigation of numerous mine water discharges into the Casselman River. [MSHA discussion: The Casselman River, which flows through parts of Maryland and Pennsylvania, would eventually receive water discharging from mines located in Somerset County, Pennsylvania. At one time Consol operated a number of mines in that county.]
2. Personnel at Consol's offices assembled all files relating to any past activities that may have caused discharges into the Casselman River. In all, six boxes were sent to a Consol attorney who, without opening, placed them in a storage room for later reference. The storage room is not part of the normal filing areas of Consol's legal department, but rather a small, closet type of room used to store materials normally not accessed over a long period of time. The boxes were marked with the attorney's initials and "Casselman River."
3. During the spring of 2004, the attorney and employee originally involved with the boxes were archiving old documents for possible donation to educational institutions. It was then that the six boxes were remembered and were included in the list of documents to review for possible donation.
4. While reviewing the contents of the boxes, it was discovered that one box contained documents relating to the area involved in the Quecreek incident. Consol immediately informed the U.S. Attorney's office of the find.
5. The Consol attorney involved relayed that he had no reason to believe that any of the boxes contained information that related in any way to the Quecreek Mine. His understanding was that the Casselman River was located some distance from the Quecreek Mine. In addition, he was unaware that Consol had received any requests for documents relating to the Quecreek Mine and, even had he known of such requests, would have had no reason to connect the Casselman River boxes with those requests.

The MSHA investigation team examined the box of documents on July 16, 2004. The box was approximately 12 inches wide by 15 inches long by 10 inches high. The top of the box was labeled "Casselman River," "SPS," "Library," "Sterling Wagner." An attorney representing Consol believed that "Sterling Wagner" might have been the librarian at Consol's offices. One side of the box was labeled "Library" and "Franklin Mine." One end of the box had a newer moving label with the title "Queecreek." It was reported that the law office had recently relocated.

Inside the box were approximately 29 folders or loose maps. Each folder and map was examined to determine if the contents were related to the mine inundation incident. The majority of the folders and documents pertained to lease and seam information in and around the Somerset County, Pennsylvania, area. The following folders or documents were related to the Queecreek mine or to circumstances surrounding the incident.

1. Annual tonnage reports from J.E. Kimmel, Superintendent of the Saxman mine, to Pittsburgh Coal Company for the years 1954 to 1963. The reports indicate the tonnages mined from each property in the area of the Queecreek mine.
2. Tax reports for the years 1954 to 1961. These reports showed tonnages mined from various properties above the Queecreek mine.
3. Letter dated May 28, 1964, from E.F. Saxman, Owner, Saxman Coal & Coke Company, to the Pittsburgh Coal Company informing them that Saxman has ended operations. The letter goes on to say that a final blueprint of workings up to October 23, 1963, which was the last day of operations at Saxman, will be mailed to them under separate cover.
4. Two detailed maps that when combined appear to show the entire Saxman mine. Handwritten on the outside-facing page in red ink of one of the maps is the following:

"DO NOT DESTROY
Saxman (Consol. Coal)
Final Survey
(Last mining by Saxman 10-23-63)
C' Seam (Up. Kittanning)
Print Rec'd. June, 1964."

The second map had slightly different, but in essence the same, wording. One of these maps was identical to the map located by MSHA at the Windber Coal Heritage Center in Windber, Pennsylvania, during the investigation.

5. Letter from C.H. Maize, Inspector for District 20 of Pennsylvania, to Pittsburgh Coal Company reminding them of the provisions in the bituminous mining law that up-to-date maps must be provided to the Department of Mines and to the Inspector of

the District within 60 days of mine closure. This letter was regarding the closure of Consol's Mines 120 and 121.

6. Lease agreement between Consolidation Coal Company and Saxman Coal & Coke Company dated January 1, 1957. An attached map, dated 6/18/56, shows Consol property west of the Saxman mine that was being leased. The map had a single-line diagram of a portion of the south mains in the Saxman mine.

The discovery of these documents reinforces MSHA's beliefs that personnel involved with the Saxman Coal & Coke Company's Harrison No. 2 Mine performed the duties required of them pertaining to the providing of final mine maps. In addition, the letter from the Pennsylvania inspector indicates that he performed his duties during the closure of other mines in the area by sending a reminder notice that final maps need to be submitted. Although it cannot be shown conclusively, MSHA believes it is likely that a similar reminder would have been sent to Saxman personnel upon closure of the Harrison No. 2 Mine. The inspector did have a portion of the final map and it is believed that Saxman would have also submitted the final maps to the Pennsylvania Department of Mines as required.

Consol could have provided Musser Engineers and RoxCoal/PBS with the final Harrison No. 2 Mine maps if they were aware that the maps were in their possession. Consol was questioned about their procedures for cataloging information received such as maps for abandoned mines and their procedures for responding to requests for information. Their responses were in a letter dated September 20, 2004.

Consol responded that they were unable to determine a more specific history of the documents listed in this addendum than what has already been provided. They noted that they had no company-wide, single system for maintaining, filing, or indexing documents. Each department was responsible for implementing its own filing system. At any time, the types of documents listed in this addendum may have been located in various departments, at different office locations, in individual employee files, or in outside storage. They further stated that there was no definitive procedure for researching or providing information to outside entities that would ask for information such as maps of abandoned properties.

It is MSHA's conclusion that even if the maps had been at Consol's office when Musser Engineers and RoxCoal/PBS inquired for information, it would have been unlikely that the maps would have been provided. Without speaking to a person at Consol who had first hand knowledge of the maps and their whereabouts, it appears that no other person would have known of the maps.

In an effort to help prevent a similar incident, Consol reported that they have implemented a program to identify and locate historical information that is appropriate for donation to educational institutions. Other procedures for the filing, organization, or disposition of more recent information are being developed and/or refined.